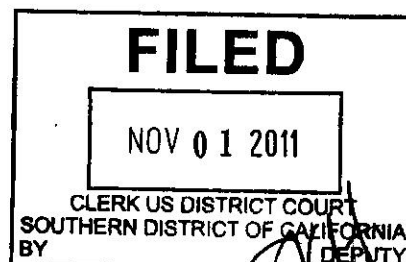


(Name) William Allen Garrett
 (Address) George Bailey Detention Facility
466 ALTO Road Suite 300
 (City, State, Zip) SAN Diego CA, California 92158
 (CDC Inmate No.) 11153607



United States District Court
Southern District of California

1254	1983
FILING FEE PAID	
Yes	No
IFP MOTION FILED	
Yes	No
COPIES SENT TO	
Court	ProSe

(Enter full name of plaintiff in this action.)

William Allen Garrett Plaintiff,

v.

Andreas Ruiz
Brandon Jordan
Brett H. Burkett
SAN Diego Police Department

(Enter full name of each defendant in this action.)

Defendant(s).

11 CV 2540 IEG WVG

Civil Case No. _____
 (To be supplied by Court Clerk)

Complaint Under the
 Civil Rights Act
 42 U.S.C. § 1983

A. Jurisdiction

Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional authority, list them below.

B. Parties

1. Plaintiff: This complaint alleges that the civil rights of Plaintiff,

William Allen Garrett, who presently resides at

William Allen Garrett
 (print Plaintiff's name)

George Bailey Detention Facility
 (mailing address or place of confinement)

466 ALTO Road

, were violated by the actions

of the below named individuals. The actions were directed against Plaintiff at 3330 3rd Avenue Suite 200

on (dates) July 14, 2011

, and July 18, 2011

(institution/place where violation occurred)

(Count 1)

(Count 2)

(Count 3)

2. Defendants: (Attach same information on additional pages if you are naming more than 4 defendants.)

Andreas Ruiz, Brandon Jordan, Brett Burkett

SAN Diego Police Department

Defendant Andres Ruiz officer
(name)

resides in SAN Diego Police Department
Broadway Division
(County of residence) SAN Diego

and is employed as a

(defendant's position/title (if any))

. This defendant is sued in

his/her ☐ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: defendant used excessive force shooting his weapon in close quarter three times after his first shot effectively removed any threat to him or his partner. Defendant is recognized as a top shooter in his division

Defendant Brandon Jordan officer
(name)

resides in SAN Diego Police Department
Broadway Division
(County of residence) SAN Diego

and is employed as a

(defendant's position/title (if any))

. This defendant is sued in

his/her ☐ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: Defendant allowed excessive force by his partner Andres Ruiz

Defendant Brett H. Burkett
(name)

resides in SAN Diego Police Department
Homicide Team 1
(County of residence)

and is employed as a

(defendant's position/title (if any))

. This defendant is sued in

his/her ☐ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting under color of law: under the 5th Amendment I was illegally interrogated while under mind alter medication; whereas Detective Burkett took advantage of the situation to manipulate a testimony

Defendant SAN Diego Police Department
(name)

resides in Broadway Division
(County of residence)

and is employed as a

(defendant's position/title (if any))

. This defendant is sued in

his/her ☐ individual ☒ official capacity. (Check one or both.) Explain how this defendant was acting

under color of law: The SAN Diego Police Department ingrad in covering up the numerous constitutional violations when petitioner was shot in the back of the neck.

C. Causes of Action (You may attach additional pages alleging other causes of action and the facts supporting them if necessary.)

Count 1: The following civil right has been violated: The Eighth, Fourteenth And First Amendment to the Constitution; cruel and unusual treatment under the color of Authority. (E.g., right to medical care, access to courts, due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 1. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 1.]

ON JULY 14 2011, AT OR AROUND 1020 PM I WAS SHOT TWICE BY OFFICER ANDRES RUIZ AT CLOSE RANGE 7 FEET OR LESS BY A LETHAL WEAPON 45 AUTO CALIBER ELIOT WOLFE PISTOL IN EXCESS. THE PLAINTIFF IN THIS ACTION SHOULD BE FREE FROM EXCESS FORCE UNDER THE COLOR OF AUTHORITY, EVEN WHILE COMMITTING A CRIME OF COMMERCIAL BURGLARY. I WAS DENIED THE RIGHT TO KNOW AND EVEN GIVEN AN OPPORTUNITY TO DROP A KNIFE USED AS A BURGLAR TOOL. OFFICER ANDRES RUIZ A TOP NOTCH SHOOTER IN HIS DIVISION WITHOUT WARNING OR ACKNOWLEDGING THAT HE WAS A POLICE OFFICER SHOT THE KNIFE FROM MY HAND WITH A DIRECT THROUGH AND THROUGH SHOT IN THE WRIST HOLDING THE KNIFE; WHEREAS THIS OFFICER SHOULD HAVE STOP SHOOTING WHEN IT WAS REASONABLY KNOWN THAT PLAINTIFF WAS WITHOUT A THREAT OF A WEAPON. HOWEVER THIS OFFICER CONTINUED SHOOTING TRYING FOR KILL SHOTS THE HEAD AND HEART; HOWEVER PETITIONER WAS TRYING TO GET AWAY AND WAS SHOT IN THE BACK OF THE NECK; WHEREAS DEFENDANT RUIZ PARTNER PLACED ME IN HANDCUFFS. I WAS DENIED MY DUE PROCESS BEING CHARGED WITH ASSAULT ON OFFICERS WITH DEADLY WEAPON WHEN I WAS NOT GIVEN AN AVOUCHEMENT OF WHO THEY WERE AND IF THEY WERE ARMED. I ASSUME SECURITY GUARDS THESE CHARGES WERE APPLIED BECAUSE I WAS SHOT BY OFFICER RUIZ UNDER COLOR OF AUTHORITY; AND THE CHARGES AGAINST ME ARE EXCESSIVE OVER STOPPING MY CONSTITUTIONAL RIGHTS WITH TIME EXCEEDING THE 8TH AMENDMENT STANDARDS

Count 2: The following civil right has been violated:

5th Amendment

(E.g., right to medical care, access to courts,

due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 2. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 2.]

I WAS INTERROGATED IN THE HOSPITAL, WHILE UNDER MORPHINE AND PERCOCET, AND THE DETECTIVE SUGGESTED I WAS SUICIDAL AND BEING UNDER THE DRUGS I WAS CONVINCED BY THIS DETECTIVE I WAS SUICIDAL. DETECTIVE BURKET IS ALSO NAMED IN THIS COMPLAINT FOR VIOLATING MY 5TH AMENDMENT AND 14TH AMENDMENT RIGHT TO DUE PROCESS. DETECTIVE BRETT H. BURKET # 4836 HOMICIDE TEAM IV

Count 3: The following civil right has been violated:

(E.g., right to medical care, access to courts,

due process, free speech, freedom of religion, freedom of association, freedom from cruel and unusual punishment, etc.)

Supporting Facts: [Include all facts you consider important to Count 3. State what happened clearly and in your own words. You need not cite legal authority or argument. Be certain to describe exactly what each defendant, by name, did to violate the right alleged in Count 3.]

The SAN Diego Police Department, should have Reasonably Known that the officers involved in this civil action engaged in the numerous Constitutional violations that caused this petitioner physical and life altering emotional stress. The failure to stop these violations is a violation of the 8th amendment; whereas the failure to protect even the person committing a crime is a crime in itself which is maliciously done.

D. Previous Lawsuits and Administrative Relief

1. Have you filed other lawsuits in state or federal courts dealing with the same or similar facts involved in this case? ☐ Yes ☒ No.

If your answer is "Yes", describe each suit in the space below. [If more than one, attach additional pages providing the same information as below.]

(a) Parties to the previous lawsuit:

Plaintiffs: _____

Defendants: _____

(b) Name of the court and docket number: _____

(c) Disposition: [For example, was the case dismissed, appealed, or still pending?] _____

(d) Issues raised: _____

(e) Approximate date case was filed: _____

(f) Approximate date of disposition: _____

2. Have you previously sought and exhausted all forms of informal or formal relief from the proper administrative officials regarding the acts alleged in Part C above? [E.g., CDC Inmate/Parolee Appeal Form 602, etc.] ? ☐ Yes ☒ No.

If your answer is "Yes", briefly describe how relief was sought and the results. If your answer is "No", briefly explain why administrative relief was not sought.

E. Request for Relief

Plaintiff requests that this Court grant the following relief:

1. An injunction preventing defendant(s):
2. Damages in the sum of \$ 365000.00
3. Punitive damages in the sum of \$ 2 million
4. Other:

F. Demand for Jury Trial

Plaintiff demands a trial by ☒ Jury ☐ Court. (Choose one.)

G. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 1983 Prisoner cases filed in this district, the Court has adopted a case assignment involving direct assignment of these cases to magistrate judges to conduct all proceedings including jury or bench trial and the entry of final judgment on consent of all the parties under 28 U.S.C. § 636(c), thus waiving the right to proceed before a district judge. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to utilize this efficient and expeditious program for case resolution due to the trial judge quality of the magistrate judges and to maximize access to the court system in a district where the criminal case loads severely limits the availability of the district judges for trial of civil cases. Consent to a magistrate judge will likely result in an earlier trial date. If you request that a district judge be designated to decide dispositive motions and try your case, a magistrate judge will nevertheless hear and decide all non-dispositive motions and will hear and issue a recommendation to the district judge as to all dispositive motions.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including trial, and the entry of final judgment by indicating your consent below.

Choose only one of the following:

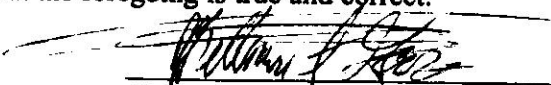
☒ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☐ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

I declare under the penalty of perjury that the foregoing is true and correct.

10-
Date


Signature of Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

William Allen Garrett

2254 1983

DEFENDANTS

Andreas Ruiz, et al

FILED

NOV 01 2011

(b) County of Residence of First Listed Plaintiff **San Diego**
(EXCEPT IN U.S. PLAINTIFF CASES)

FILING FEE PAID

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

IFP MOTION FILED

NOTE: IN LAND CONDEMNATION CASES, CHECK ONE: ☒ LAND INVOLVED ☐ LAND NOT INVOLVED

Yes No

COPIES SENT TO

Attorneys (If Known)

Court Pro Se

11 CV 2540 IEG WVG

(c) Attorney's (Firm Name, Address, and Telephone Number)

William Allen Garrett
466 Alta Road Ste. 5300
San Diego CA 92158
11153607

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 690 Other	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 490 Selective Service
<input type="checkbox"/> 190 Other Contract			<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 790 Other Labor Litigation		<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General			<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 462 Naturalization Application		<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input checked="" type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee		<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
	<input type="checkbox"/> 440 Other Civil Rights				<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42:1983

Brief description of cause:

Prisoner Civil Rights

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 2,365,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/01/11

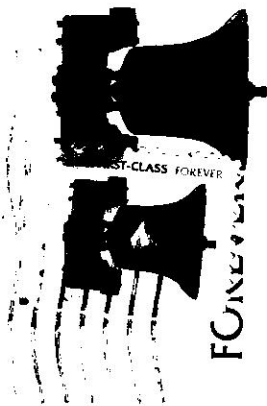
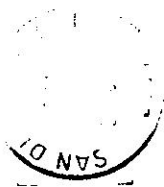
SIGNATURE OF ATTORNEY OF RECORD

SKHoestenbach

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

WILLIAM FAIRFAX - 11153607 GA-203
George Bailey Detention Facility
446 A10 Road Suite 5300
SAN DIEGO CA, 92158



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

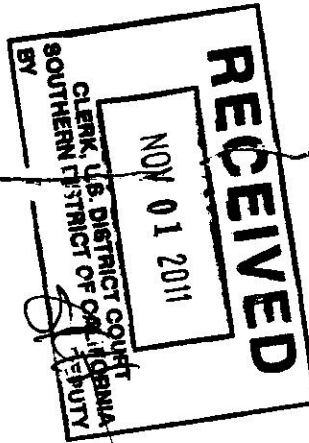
LEGAL MAIL

Office of the Clerk
880 KENNEDY STREET, SUITE 4290
SAN DIEGO, CALIFORNIA LEGAL MAIL

92101153607

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Legal Mail



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